

SELECT BOARD MEETING – TOWN COUNSEL INTERVIEWS
MINUTES JULY 16, 2018
APPROVED

BOS Members Present: Barry A. Pease, Chair; Alison S. Manugian, Vice Chair; John R. Giger, Clerk; Joshua A. Degen, Member; Rebecca H. Pine, Member

Also Present: Mark W. Haddad, Town Manager; Dawn Dunbar, Executive Assistant

Mr. Pease called the meeting to order at 6:00pm. He stated for the public that this was a work session and that there would be no public input allowed.

BROOKS & DERENSIS

Mr. Pease – Question 1: Paul DeRensis said that he had been a sitting town counsel since the 1980's and was also a selectman in a community similar to Groton. He said he was not going to give the Board long responses and wanted to solve problems and get them off the Board's mind. He said that they were offering a flat rate and were offering a partnership proposal. Their offices are located 4 blocks away from the State House in Boston. He said they were a very hands on firm. Lenny Kopelman said that he too was very familiar with the area. He said he choose this firm because the firm had all trained people. Lou Ross introduced himself as a land use attorney. He said he also was the point of contact for OML, public records law to name a few. He said that he also served on his town finance committee. Ms. Kim Salant said she had been a litigator for 33 years and that she had a great winning record. Peter Barry said he was the firms labor law attorney who was also involved in local government in his hometown of Acton.

Ms. Manugian – Question 2: Mr. DeRensis said he would be lead counsel and wanted to have all requests come to him at which time he would delegate to other attorneys.

Mr. Giger – Question 3: Mr. DeRensis said that he was on the executive committee at the MMA and was constantly speaking with the administration. Mr. Barry said that they stay involved in what's going on and involve themselves in updates.

Mr. Giger – Question 4: Mr. Ross said that they offered all types of training at no charge. He said that they publish newsletters 2x's a year and brief news alerts more frequently. Mr. DeRensis said that the needs also depend on the community.

Ms. Pine – Question 5: Mr. DeRensis said that Mr. Barry had just sent out two alerts on pregnancy and the equal pay act. He said that they would send out emails to the Board and Town Manager to describe a new statute, etc.

Mr. Pease – Question 6: Mr. DeRensis said, they would, as requested.

Ms. Manugian – Question 7: Mr. DeRensis said that they were always being asked questions about ethics. He said they couldn't guarantee their advice will be followed but could advise the Board on what they should be doing.

Mr. Giger – Question 8: Mr. Barry said that they would have to recognize that their employees were their greatest assets but also the largest cost to the town. He said that they would need to approach the table with requests and make it collaborative. He said that they could always find reasonable compromises to grievances.

Mr. Degen – Question 9: Mr. DeRensis said that he had attended over 1,217 town meetings and drafted that many warrants also. He said he felt it was Town Counsel's job to assist the Moderator in running an efficient, legal meeting.

Ms. Pine – Question 10: Mr. Kopelman said that he had been involved in numerous cases at the ATB and also trained assessors to be able to hand the ATB themselves. He said he was always happy to attend adding his success rate was very high at the ATB.

Mr. Pease – Question 11: Mr. DeRensis said that this depended on the nature of what they were going to do. If the department head was about to commit a crime, he said he would bring it to the attention of the appointing authority where counsel could advise and defend to the best of their ability.

Ms. Manugian – Question 12: Mr. DeRensis said that they would automatically review all the Town's bylaws adding it was part of their process of getting familiar with the Town.

Mr. Giger – Question 13: Ms. Salant said that she had litigated all facets of land use. She gave an example of a case she helped through the public hearing process without needing to litigate.

Mr. Degen – Question 14: Mr. DeRensis said that their per month retainer was \$5,000 which covered everything except litigation, labor and real estate. He said that collective bargaining would also be outside of the retainer.

Ms. Pine asked if their firm had time to take Groton on adding they all seemed so busy professionally and personally. Mr. DeRensis said that if they were chosen, Groton would be their 5th town and would be very important to them.

Mr. Pease – Question 16: Mr. DeRensis said that they would tell the Board if there was something you couldn't do but would also work with them to accomplish what they were trying to do. Mr. DeRensis said that because they also served in their own local governments, they had heard and seen everything which they saw as an advantage. Mr. Degen asked what their turn around time was on providing a legal opinion and if it was written or oral. Mr. DeRensis said that if he could tell them verbally, he would but would follow up with a written opinion when asked also. Mr. Degen asked if the question was not cut or dry what their turn around time was. Mr. DeRensis said that they like to ask what the deadline was.

MEAD TALLERMAN COSTA

Mr. Pease – Question 1: The firm introduced themselves as Adam Costa, Lisa Mead and Kate Fetterhoff. Mr. Costa said that they represented 16 communities as general counsel and prided themselves on being a medium size firm. He said that they provide office hours in all their communities based on needs adding they proposed monthly office hours for Groton by their lead counsel.

Ms. Manugian - Question 2: Ms. Mead said that responsiveness and getting to know the attorney was what they like to see. She said that the second point of contact would also everything that was going on.

Mr. Giger – Question 3: Ms. Mead said that they were part of the Municipal Lawyers Association and participate and provide educational seminars. She said that she also taught at Suffolk for their certificate program.

Mr. Degen – Question 4: Mr. Costa said that they provide frequent trainings on a number of laws and could tailor them to Ms. Mead said that they don't publish regular newsletters but when something hot they made sure to get the info out.

Mr. Pease – Question 6: Ms. Mead said that this all depended on the needs of the Board. Mr. Pease asked if they wait to be asked. Ms. Mead said that they should know about the hot topics from the office hours.

Ms. Manugian – Question 7: Ms. Fetterhoff said that if an issue of conflict came up, they needed to figure out what the issues were. She said that they would provide a written opinion. She said she tried to be proactive with grievances and always appreciated the Town coming to her before making a decision.

Mr. Giger - Question 8: Ms. Fetterhoff said it depended on the Town and what the comfort level of the Town Manager and town was. She said she was always happy to assist and or review.

Mr. Degen – Question 9: Mr. Costa said that they had a way they liked but every community was different. She said that they like to work on the warrant in its various drafts. He said that they respond at Town Meeting to questions as called upon.

Ms. Pine – Question 10: Mr. Costa said they had 3 attorneys that practice before the ATB adding he had represented their communities on residential and non-residential cases.

Mr. Pease – Question 11: Ms. Mead said that they would Town Manager aware immediately of any potential issues. She said that often times their job was to tell the Town the good, bad and ugly. Mr. Degen asked if they were hired who they would work for. Ms. Mead said they would work for the Board.

Ms. Manugian – Question 12: Ms. Mead said that they had all done reviews of sections of bylaws adding they were very familiar with general bylaws.

Mr. Giger – Question 13: Mr. Costa said that he handled a substantial portion of litigations for the firm.

Mr. Degen – Question 14: Ms. Mead said that one option for fees was a flat fee which covered everything except labor. She said that ATB work and tax title work was not included either. That cost was \$6,500/month. She said that the next choice excluded litigation. She said that cost was \$4,500 per month. The third option was the hourly model. Labor costs were billed at \$190/hour.

Ms. Pine – Question 15: Mr. Costa gave an example of a case.

Mr. Pease – Question 16: Ms. Mead said they liked to hear what they want to do and what their goal was and then research to see if the goal can be achieved. She said that they would also lay out the pros and cons and the Board would make the business decisions. She said that their job was to defend you.

Mr. Degen asked if they were to hire MTC who the lead would be. Ms. Mead said that Mr. Costa would be the lead and she would be the second point of contact.

KP LAW

Mr. Pease – Question 1 – Ms. Goldberg said that they had been serving the Town for 25 years adding they were a municipal law firm. She said that they had a lead counsel and a backup counsel as well as subject area attorneys also. She said that they stayed on top of all new legislation and cases of significance. Mr. Doneski said that in 2008 we had an interview in Groton and were asked why they wanted to represent the Town. He said that his answer was that Groton was a vibrant community and had a unique balance. He believed that working with Groton broadened their horizon. Mr. Maser said that he had been with KP since July 2005 adding that labor and employment was his expertise. He said he was one of 8 labor attorneys who constantly drew from one another with regular meetings and conversations. Mr. Maser said that he does a lot of advising on a daily basis adding they needed to be responsive as labor attorneys. He said that it had been a real pleasure representing Groton and wanted to see that continue.

Mr. Giger – Question 3: Mr. Doneski said that they monitor on a daily basis what's going on at the State House. He said that they focus on all sources of information. Ms. Goldberg said that they had an interest in knowing these things adding it was worth it for them to keep up to date on things. Ms. Goldberg said that they spent a lot of time working on e-updates and was concerned that Mr. Giger had not received any of the updates from them. She said that she would work to make sure the information is getting out there.

Mr. Degen – Question 4: Mr. Doneski said that they did OML training and sexual harassment training in the fall for Groton adding that trainings were done at no cost. Mr. Degen asked about office hours. Mr. Doneski said that their retainer didn't contemplate office hours but that was something they could arrange. He said it would require them to revisit the retainer fee based on frequency.

Mr. Pease – Question 6: Mr. Maser said that he believed that if the client felt there was a benefit they could make themselves available for that purpose. Ms. Goldberg said they didn't typically make decisions for the Town but rather inform you.

Ms. Manugian – Question 7: Mr. Maser said that they would ask for a copy of the collective bargaining contract and facts before doing anything. He said he would review all the information, speak to the point of contract and draft a response if required and bring it through the process.

Mr. Giger – Question 8: Mr. Maser said that the Town had multiple bargaining groups. He said he would arrange meetings with the Town Manager and or Select Board to find out what the objectives were in executive session. Ms. Manugian asked for a brief overview of who was typically at the table. Mr. Maser said that every town was different and it depended on the specific needs and wants of the town.

Mr. Degen – Question 9: Mr. Doneski said that the basic goal behind the article was where he started adding he always discussed what's beyond the straight forward.

Ms. Pine – Question 10: Mr. Doneski said that they have another attorney that works with the ATB. He said that a lot of cases tended to be about relatively small amounts. He said that if the Town had a need or want for them to provide a service they would.

Mr. Pease – Question 11: Mr. Doneski said that this depended on the circumstances. He said that it may be a notice to an admin or manager adding it would also be noticed to the Board at the same time or concurrently.

Ms. Manugian – Question 12: Ms. Goldberg answered, yes on a regular basis. Mr. Maser said that they also would review the Town's personal policies.

Mr. Giger – Question 13: Mr. Doneski said that they had enforcement side issues and defense side issues. He said that they would look at the bylaw first and then look at the goals of the community.

Mr. Degen – Question 14: Mr. Doneski said that the retainer service has a cap of \$35K annually with an hourly rate of \$180. Ms. Goldberg said that anything adversarial is not covered.

Ms. Pine said that they had a situation where they received advice and were charged with an OML violation. She asked what they thought about that after it happened. Mr. Doneski said he still thought the advice was appropriate adding it was not the first time they would have had a disagreement with a state agency. He said that they look to the law and what the goal of the client was and see what could be done. He said if it wasn't something that could be done, they would tell the client that. Ms. Goldberg said that part of their challenge was to advise in the context of new laws with new determinations. She said that there were many times they disagreed with the Attorney General's office. She said that interpretations changed and also thought it was an experience issue also. Mr. Haddad asked Mr. Doneski if he was contacted by the AG's office as per their practice. Mr. Doneski said he had not been contacted by them adding that was the first time that had occurred.

Mr. Pease said that he would put this topic on the next agenda.

Mr. Pease adjourned at 9:14pm.

Approved: _____
John Giger, Clerk

respectfully submitted,
Dawn Dunbar, Executive Assistant

Date Approved: 7/30/18